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page]*

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re:
PG&E CORPORATION,
- and -
PACIFIC GAS AND ELECTRIC
COMPANY,
Debtors.

Bankruptcy Case
No. 19-30088 (DM)
Chapter 11
(Lead Case)
(Jointly Administered)

**EX PARTE MOTION TO RECALL JOHN
BOKEN AND KENNETH ZIMAN FOR
FURTHER CROSS-EXAMINATION**

Date: [to be set]
Time: [to be set]
Judge: The Hon. Dennis Montali

¹ Associated as co-counsel on behalf of the claimants/creditors herein.

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 Moving parties hereby submit this ex parte motion to recall John Boken and Kenneth
3 Ziman before this Court for further cross-examination.

4 The Debtors and their investment bankers in particular, Messrs. Boken and Ziman, filed
5 declarations, under oath, with this Court, and testified, under oath, that the pandemic would not
6 affect the viability of the Plan – both the declarations and the testimony are now questionable.
7 Specifically, the statements currently made in support of the new Backstop Amendments and the
8 statements previously given to support confirmation of the Plan (the latter of which had to have
9 been made around the same time the new Backstop Amendments were being negotiated) are
10 wholly inconsistent. The idea that the Debtors knew the Backstop Amendments were needed due
11 to a changed market, while they were simultaneously swearing to the Court that the Plan is viable
12 and confirmable with no impact due to the pandemic, seems questionable.

13 Mr. John Boken filed a declaration on May 22, 2020 in which he stated under oath that the
14 Corona Virus 19 (“CV-19”) pandemic”... was not expected to have a material impact on the
15 financial projections or the Debtors’ ability to meet their obligations under the plan.” *See*, John
16 Boken Dec., Doc. No. 7514, 5/22/20, page 5, ¶ 11. He reaffirmed that statement during his cross-
17 examination on June 1, 2020 at pages 40:3 - 44:4.

18 Likewise, during his cross examination, Mr. Kenneth S. Ziman affirmed that Boken stated
19 that the CV-19 pandemic would have no material impact on the projections the Debtors made in
20 connection with the plan. *See*, Kenneth S. Ziman Cross Examination, 65:7-12 (June 1, 2020). In
21 fact, Mr. Ziman’s declaration filed on May 22, 2020, made the financial analysis the Debtors
22 were offering to convince the Court that their Plan should be confirmed was meant to make it
23 appear that everything in the financial markets was just fine and there was no need to be
24 concerned about any effect from the CV-19 pandemic.

25 Now, some 10 days after both Messrs. Boken and Ziman swore before this Court that the
26 financial analysis the Debtors had done to assure that their Plan was going to work, while at the
27 same time someone representing the Debtors had to have been negotiating with the Backstop
28 group to modify the terms of their agreement to take into account the effect of CV-19 on the

1 financial markets, Mr. Ziman was forced to file a new declaration admitting, under oath, that:
2 “The COVID-19 pandemic has negatively impacted the utility sector and the capital markets as a
3 whole.” Ziman Dec., Doc. No. 7849, 6/9/20, ¶ 9, page 5:8-9. Of course, the undersigned have
4 been telling this Court for weeks that the CV-19 pandemic had a material negative effect on the
5 Debtors’ Plan, which the Debtors now admit was true all along. Therefore, the Debtors want to
6 amend the backstop letters to permit the Debtors to raise \$9 billion of equity proceeds through
7 market offerings at a higher price than a backstop draw under the previously approved
8 commitment letters. *Id.*, at Para 10, page 5:23-26.

9 Based on this new admission and the new Ziman declaration, Certain Fire Victims move
10 this Court for an order setting a hearing on the motion and an order recalling both Mr. Boken and
11 Mr. Ziman for further cross examination so that the full extent of the CV-19 pandemic on the
12 Debtors’ plan can be placed in the record.

13 Dated: June 14, 2020

By: /s/ Richard A. Lapping
Richard A. Lapping

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19 Karen Roberds and Anita Freeman,
for themselves and on behalf of all others
20 similarly situated

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1 **CERTIFICATE OF SERVICE**

2

3 I, Francis O. Scarpulla, declare as follows:

4 I am a citizen of the United States and over the age of eighteen (18) years and not a party
5 to the within action. My business address is 456 Montgomery Street, 17th Floor, San Francisco,
6 CA 94014.

7 On June 14, 2020, I served document(s) described as:

8 **EX PARTE MOTION TO RECALL BOKEN AND ZIMAN**
9 **FOR FURTHER CROSS-EXAMINATION**

10 on the interested parties in this action as follows:

11 [] BY MAIL: Service was accomplished by placing the document(s) listed above in a sealed
12 envelope with postage thereon fully prepaid, in the United States mail at San Francisco,
13 addressed as set forth above.

14 [X] BY E-MAIL/NEF: Service was accomplished through the Notice of Electronic Filing
15 (“NEF”) for all parties and counsel who are registered ECF Users and those identified
16 below:

17 I declare under penalty of perjury under the laws of the United States of America that the
18 above is true and correct. This declaration was executed on June 14, 2020 at San Francisco,
19 California.

20 /s/ Francis O. Scarpulla

21 Francis O. Scarpulla

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